

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawaii 96813

May 26, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Request for approval to enter into Revocable Permits pursuant to HRS section 171-55 with Adventures in Paradise, Hawaii Pack and Paddle, Kona Boys Inc. and Aloha Kayak Company for landing and launching kayaks at Kaawaloa, Kealakekua Bay State Historical Park, as a part of their commercial guided kayak tours within Kealakekua Bay, on terms and conditions to be negotiated by the Chairperson.

APPLICANTS:

Adventures in Paradise, Hawaii Pack and Paddle, Kona Boys Inc. and Aloha Kayak Company.

LEGAL AUTHORITY:

Sections 171-55, Hawaii Revised Statutes, as amended.

CHARACTER OF USE:

Launching and landing kayaks at Kaawaloa, Kealakekua Bay State Historical Park, as a part of their commercial guided kayak tours within Kealakekua Bay.

LOCATION:

Kaawaloa within the Kealakekua Bay State Historical Park, Island of Hawaii.

COMMENCEMENT DATE:

To be determined by the Chairperson.

FEE:

\$ 5.00 per guest, per landing.

REMARKS:

At the September 23, 2005 Land Board meeting, the department presented recommendations to the Land Board (Board) regarding the management of Kealakekua Bay on the island of Hawaii. One of these recommendations was to authorize the Chairperson to negotiate and enter into permit agreements subject to Attorney General approval. After review by the Attorney General the department was advised to seek further Board approval for issuance of Revocable Permits issued in behalf of the Division of State Parks for the launching and landing of kayaks at Kaawaloa with terms and conditions to be negotiated by the Chairperson.

ITEM E-1

At the September 23, 2005 Land Board meeting, the Board further directed staff to report back to the Board within six months with a status report on the department's actions at Kealahou Bay and a report on how the department planned to address impacts at Kaawaloa. Thus the department returned to the Board on March 24, 2006, and gave an update on the department's progress and addressed issues at Kaawaloa. This Board submittal is attached as Exhibit "A" for your information and reference.

RECOMMENDATION: That the Board:

1. Authorize the issuance of Revocable Permits pursuant to HRS section 171-55 to Adventures in Paradise, Hawaii Pack and Paddle, Kona Boys Inc. and Aloha Kayak Company for landing and launching kayaks at Kaawaloa, Kealahou Bay State Historical Park, as a part of their commercial guided kayak tours within Kealahou Bay, on terms and conditions to be negotiated by the Chairperson and further subject to the following:
 - a. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - b. Review and approval by the Department of the Attorney General;
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State and
 - d. Chairperson may negotiate and change terms and conditions of standard revocable permit form, as deemed appropriate by the Chairperson

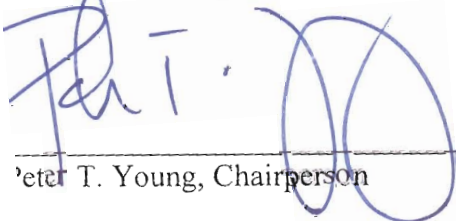
Chairperson shall determine eligibility of each commercial kayak tour operator for a revocable permit pursuant to HRS section 171-13. No revocable permit shall be issued to a commercial operator who is not eligible under HRS section 171-13.

Respectfully Submitted,



Dan Quinn
State Parks Administrator

APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawaii

March 24, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

SUBJECT: (Non Action Item) Update to the Board of Land and Natural Resources on action taken at the September 23, 2005 BLNR meeting relating to Kealahou Bay

At the September 23, 2005 Land Board meeting, the department presented recommendations to the Land Board (Board) regarding the management of Kealahou Bay on the island of Hawaii. The Board directed staff to report back to them within six months with a status report on the department's actions at Kealahou Bay and a report on how the department planned to address the impacts at Ka'awaloa. Thus, this submittal is an update to the Board on the actions undertaken by staff to date.

Since the September 23 Board meeting the department has worked with the community in addressing the recommendations approved by the Board. Attachment A lists the Board's actions followed by some of the next steps the department is taking to implement these actions.

In October of 2005, the community at the direction of the department was asked to form working groups to meet and discuss the actions of the Board. Three working groups made up of community members and commercial operators were formed. These groups met throughout November, December and January and were able to provide recommendations to staff on implementation of the Board's actions. The working groups met on January 31, 2006 to summarize their recommendations, which are attached as attachments C, D, and E.

KA'AWALO A:

At the September 23, 2005 Land Board meeting the Board specially asked for an update on how the department planned to address impacts on Ka'awaloa.

On January 31, 2006 department staff from the Chairperson's Office, Division of Historic Preservation and Division of State Parks accompanied members of the community, kayak operators, and Hawaii County staff to Ka'awaloa for a site visit.

Gordon Leslie of Malama Pono graciously provided transportation to the site. Once at Ka'awaloa the group inspected various areas for possible use and discussed possible scenarios.

Ka'awaloa Launching and Landing Protocols

Launch and Landing will be made at Awili at the location shown on attachment B as 1. This location was formerly used as a canoe landing. The area consists of an exposed storm beach with a channel and gradual incline over pahoehoe, which is ideal since this lava surface is not as delicate as other areas.

Kayak tour leaders will land first and place a bamboo or similar material landing pad to help protect the lava surface when the kayaks are brought on shore. They will then assist those on their tour with the landing procedure as well.

After all kayaks have landed, kayaks will be carried to the kayak temporary storage area near the terminus of Ka'awaloa Road shown on Attachment B as 2. This will ensure that kayaks are out of the way of others who may be landing at the site and also ensure that the kayaks are out of the water and do not float away.

Open Area

From there, kayak tours will follow an existing marked trail (marked on Attachment B in red) that leads to a clearing area marked as site 3 on Attachment B. Tours may not deviate from this trail. This area can be used for orientation, eating, and as a resting area (trees provide adequate shade). Additionally, this is the area that portable toilets may be put up and utilized. This area is covered by a dense growth of kiawe trees that will be trimmed, especially those trees overhanging the shoreline. Historic Preservation and State Park staff will work with the community on accomplishing needed maintenance and preservation of the area.

Monument and Entry Into The Water

From the open area the designated path continues to the Captain Cook Monument. The Monument offers an opportunity for visitors to take pictures and read the various inscriptions and plaques in the area. There is also a concrete pier from which visitors are able to enter and exit the water for swimming and snorkeling, marked as site 4 on Attachment B. Again, as with Awili landing area, it offers the suitable place for people to walk, as it is a man made structure. Entry and exit from the landing will be made via portable ladder that the kayak operators will provide (and remove after each tour). Entry and exit from the Awili landing site has also been discussed and more information is needed from all parties before the appropriateness of using the area or water entry is determined.

Launching

Launching of the kayaks will be made from the Awili following the same protocols as the landing.

Other Protocols

Besides the protocols outlined above, conditions will be included in all permits to add the following conditions:

- Permittee must stay on the designated trail and is confined to the Awili, trail, open area and monument.
- Permittee shall not restrict or infringe on the public's opportunity to use and enjoy these public resources.
- Permittee is responsible for cleanup and hauling away, and any costs associated therewith, of any trash resulting from the permit activity.
- Permittee is required to remove litter accumulations at Ka'awaloa four (4) times per year.
- Permittee shall provide at its sole cost and expense portable toilets or related facilities during the time the Permittee is present with guests at Ka'awaloa.
- Prior to or at the initial contact at the premises, Permittee shall give to each guest a briefing apprising each the importance and significance of the area's natural and cultural resources.

- No one associated with the Permit (i.e. Permittee, guides or guests) shall allow any guides or guests to disturb any archaeological sites. Any changes or disturbances to archaeological sites will be reported immediately to DLNR.
- Permittee may not modify the Ka'awaloa site by planting new plants, moving rocks or erecting any temporary structures (portable toilets are excluded from this provision).
- Permittee must adhere to Ka'awaloa protocols developed by the department.

MEETINGS:

Community Meetings

Besides the working group meetings, members of the community have met multiple times since the September Board meeting. These meeting were facilitated by Hawaii County and attended by department staff.

Commercial Operator Meetings

Department staff has had various meetings with kayak operators and motorized vessel operators to discuss use of Ka'awaloa, permit conditions, scheduling and fees.

Kayak Association of the Islands - January 18, 2006 and March 7, 2006.

Motorized (including drift-ins) Operators - February 23, 2006 and March 7, 2006.

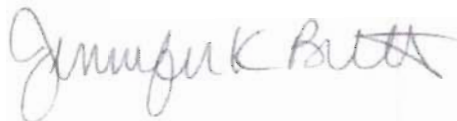
Fairwind Operators - March 7, 2006

On March 7th department staff met with kayak operators, and motorized vessel operators (including Fairwind) to discuss scheduling of commercial activity in the Bay.

These meetings have proved valuable and staff continues to work with these operators on finalization of permits and their eventual implementation. Draft permits for commercial kayak and motorized vessel operations in the Bay are currently being reviewed by the AG's office.

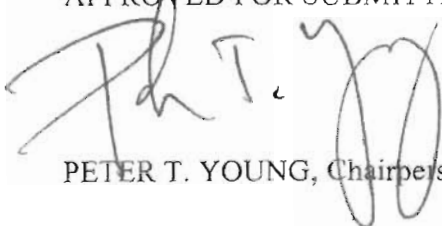
The department continues to move forward on implementation of the Board's actions. The community, commercial operator and staff are eager to implement the Board's actions and to monitor the activities to ensure that the Bay is protected.

Submitted by,



Jennifer K. Bethel
Project Coordinator

APPROVED FOR SUBMITTAL:



PETER T. YOUNG, Chairperson

Attachment A

PRIOR BOARD ACTION:

- 1) Approve and authorize the department to conduct public hearings to amend HAR §13-29-1, HAR §13-29-2 and HAR §13-244-30 and add HAR §13-256-165 to establish a “kapu” area, to be identified as Zone C. The area will be closed to all users and uses. Zone C is generally represented on Attachment 1 and proposed HAR amendments and additions are shown as Attachments 2, 3 and 4.
 - Take measurements for correct buoy positions
 - Have rules approved by AG
 - Hold public hearing
 - Have final rules approved by Land Board
- 2) Authorize the department, to work with the kayak operators and the community to develop a designated landing site and establish proper procedures and techniques (use of mats etc.) at Ka’awaloa for the entry/exit of kayakers, as well as develop appropriate signage for the area (to comply with State Park rules).
 - Integrate Ka’awaloa protocols into permits.
- 3) Authorize the department to conduct public hearings to amend HAR §13-29-2 and HAR §13-244-30 and add HAR §13-256-165 to prohibit introductory/training SCUBA diving within Kealakekua Bay. Proposed HAR rules are shown as attachments 2, 3 and 4.
 - Have rules approved by AG
 - Hold public hearing
 - Have final rules approved by Land Board
- 4) Authorize the installation of kayak mooring buoys (within Zone A) near Ka’awaloa to be shared by all kayak users, recreational and commercial.
 - Continue to investigate need for buoys
- 5) Authorize further investigation, with priority focused on culturally appropriate composting facilities, of alternatives and ultimate implementation of restroom facilities at Ka’awaloa.
 - Mandate use of “portable” toilets for all kayak operators
 - Support continued use of portable toilets at the pier
- 6) Authorize the construction of additional parking on the State Park parcel along Lower Government Road.
 - Clear area for use
- 7) Authorize the installation of ladders at Napoopoo Landing for safer ingress/egress for boaters, swimmers, kayakers and other users of Napoopoo Landing.
 - Find prototypes of ladder - portable, floating raft with ladder that could be removed easily
 - Work with HP and OCCL on possible historic and conservation issues
- 8) Initiate, with appropriate partners, a “Makai Watch” program at Kealakekua Bay.
 - Continue to encourage community to work with Makai Watch partners to develop program at the bay

- 9) Authorize the department to fund (through commercial fees suggested in this submittal) and assign an on-site Ranger(s) at Kealahou Bay to help monitor and manage uses and activities of the Bay for the protection of the resource and the enjoyment and safety of visitors and residents.
 - o Position approved
 - o Begin Recruitment
- 10) Authorize the department to reconvene the intradepartmental working group at least once a year to discuss commercial permits, level and quality of visitation, the status of the resources, and enforcement/management concerns. Incorporate all appropriate DLNR divisions in the discussions and include community representatives, Bay users, cultural practitioners, permittees and others.
 - o Community group continues to meet on a regular basis with the assistance of Hawaii County as facilitators
 - o DLNR continues to coordinate internally on Kealahou Bay issues
- 11) In accordance with HAR 13-321-51, 13-29-4, 13-250-5, 13-256-3, 13-146-68 and HRS 190-4 and 187A-6-b, authorize the Chairperson to negotiate and enter into permit agreements, generally represented in attachment 6 and subject to Attorney General approval, with conditions and access protocols that address resource protection measures, management, that also permit watching of aquatic life, with terms not to exceed one year, with commercial kayak operators, that include permit fees of \$5 per guest per day (permit revenue to be divided as follows: first, cover costs and expenses related to the resource ranger stationed at Kealahou Bay, kayak mooring buoy maintenance and operation and maintenance of portable toilets, other associated costs in the Bay, then, any balance to be divided 1/4 - 1/4 - 1/4 - 1/4 between DAR, DOBOR, Parks and DOCARE.) Permittee shall be required to conduct safety and natural & cultural resource briefings prior to entering the water at Napoopoo Wharf. The chairperson will work with DLNR staff and the commercial operators to develop final permit conditions.
 - o Continue work with kayak operators
 - o Finalization of permit conditions
 - o Finalization of schedule
 - o Permits are currently being review by the AG's office
- 12) Authorize the chairperson to investigate and implement actions, including assessing a fee of \$5 per kayak, to address the management of rental operators who rent kayaks offsite whose guests ultimately end up being used within Kealahou Bay.
 - o Continue to investigate alternatives for management of kayak rental (commercial and non-commercial) use in the bay
- 13) In accordance with HAR 13-321-51, 13-29-4, 13-250-5, 13-256-3, 13-146-68 and HRS 190-4 and 187A-6-b, authorize the Chairperson to negotiate and enter into permit agreements, generally represented in attachment 7 and subject to AG approval, with conditions and access protocols that address resource protection measures, management, that also permit watching of aquatic life, with terms less than one year, with commercial drift-in snorkel and scuba operators, that include permit fees of \$3 per guest per day (permit revenue to be divided as follows: first, cover costs and expenses related to the resource ranger stationed at Kealahou Bay, kayak mooring buoy maintenance and operation and maintenance of portable toilets, other associated costs in the Bay, then, any balance to be divided 1/4 - 1/4 - 1/4 - 1/4 between

DAR, DOBOR, Parks and DOCARE.) Permittee shall be required to conduct safety and natural & cultural resource briefings prior to guests entering the water at Kealakekua Bay. The chairperson will work with DLNR staff and the commercial operators to develop final permit conditions.

- Continue work with motorized operators
- Finalization of permit conditions
- Finalization of schedule
- Permits are currently being review by the AG's office

14) Authorize the department to evaluate the existing permitting of Fair Wind Cruises and other moorings in the Bay, and return to the board prior to the expiration of their existing permits with recommendations on subsequent disposition of permits.

- Continue work with Fairwind
- Continue to evaluate permit and assess possible new restrictions and fees (to bring their permit in line with other motorized vessels)

15) In lieu of a kayak rental concession at Napoopoo Landing, authorize the chairperson to negotiate with the Hawaii Island Kayak Association for daily services at Napo'opo'o landing including: Giving a safety and natural and cultural resources briefing to all independent kayakers/paddlers; Assisting with the safe launching and landing of independent kayakers/paddlers from Napoopoo Landing; Monitoring pier use (kayak numbers, parking, visitor #s); and Coordinating with the state Ranger program, the Makai Watch program, and DLNR staff.

- Kayak Association of the Islands (formerly HIKA) received a grant from the Hawaii Tourism Authority to fund its services at the pier
- DLNR will continue to work with HIKA to ensure they are following thru with obligations in an appropriate manner

16) Authorize the department to work with the commercial entities within the Bay (kayak, drift-in, mooring users) to establish an appropriate number of users in the bay at any given time. Further, authorize the chairperson to monitor and be authorized to make immediate adjustments during the term of the permits to the number of users within the bay, as necessary to protect the bay's resources and to mitigate user conflicts.

- Develop monitoring protocol to monitor numbers once permits are issued

17) Require the department to report back to the Board periodically to update the Board on the status of Kealakekua Bay and if necessary provide additional recommendations including amendments to the recommendations proposed in this submittal.

- The department will come back to the board within six months with another update on actions of the department and the community

18) Any other commercial ocean recreational activity within Kealakekua Bay is subject to Land Board approval.

- The use of canoes (sailing and paddling) has been discussed and the department is evaluating their use along with all other commercial activity in the bay

- 19) The dispositions and rules changes contained within this submittal are contingent upon approval by the State Attorney General's office.
- Permits are being reviewed by the AG
- 20) Authorize the chairperson to work with the SNUBA operator in Kealahou Bay to develop proper protocols to ensure that SNUBA activities do not negatively impact the bay's resources.
- Staff has worked with the Fairwind SNUBA operator on operational protocols
 - These protocols will need to be formalized and incorporated into Fairwind permit

Attachment B

